

**Town of Kinderhook  
Planning Board Meeting  
3211 Church Street  
Valatie, NY 12184  
April 17, 2014**

Approved

**Minutes**

The Meeting of the Town of Kinderhook Planning Board was held on Thursday, April 17, 2014, beginning at 7:02pm at the Kinderhook Town Hall, 3211 Church Street, Valatie, NY. The meeting was called to order by the Chairwoman, Mary Keegan-Cavagnaro. The Roll was taken by the Secretary.

**A. Roll Call**

Present:

Mary Keegan-Cavagnaro, Chairwoman  
Andy Howard, Town Attorney  
Patrick Prendergast, Engineer  
Peter Haemmerlein  
Chris Simonsen  
Jake Samascott  
William Butcher  
Dale Berlin  
Daniel Weiller  
Guy Rivenburgh  
Jason Graham  
Nataly Dee, Secretary

Excused:

Absent:  
None

**B. Correspondence**

1. Review of Minutes:

February 13, 2013 – Workshop  
February 20, 2013 – Meeting  
March 20, 2014 – Meeting

A motion to approve the February minutes was made by Mr. Samascott. Motion seconded by Mr. Simonsen. All in favor. Motion carried; February minutes approved.

The minutes from the March meeting will be table until next month.

**C. Public Hearings**

1. 7:05pm - Jet's Auto Body – 2532 US Route 9H, Kinderhook, NY

The notice as it appeared in the newspaper of record was read by the secretary (on file).

Mr. Pfeffer, the applicant, and Mr. VanAlstyne, Land Surveyor, addressed the board and distributed plans for review. They outlined the proposed use and some of the changes that had been made to the plans since the last meeting, specifically noting the change to the exterior lighting and additions to

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landscaping. A letter was submitted from the Department of Transportation requesting that the existing entrance from Fischer Road be removed but no other improvements were required at this time. That change has been noted on the plans.

A motion to open the Public Hearing was made by Ms. Keegan-Cavagnaro. Motion seconded by Mr. Berlin. All in favor. Motion carried; hearing opened.

The Chairwoman asked if there was anyone from the public who would like to speak in regard to this application. There was none.

An email was received by the secretary from a neighbor in response to the notices sent to neighbors. The email was from Mr. Tom Kirby. It was reviewed by the board and is on file.

A motion to close the Public Hearing was made by Mr. Berlin. Motion seconded by Mr. Simonsen. All in favor. Motion carried; hearing closed.

Discussion by the board followed.

Mr. Berlin felt that the concerns expressed in the email regarding the site's appearance and the potential for it looking like a "junk yard" have been satisfactorily addressed by the applicant. Screening will be provided. Mr. Simonsen cited the code regulations regarding junk vehicles. He also inquired about the distance from the proposed fence to property line. It was noted that square footage has been provided, but dimensions should also be provided on the plans. The regulations regarding an air permit were reviewed. The applicant reported that for the projected use a permit would not be required. It was inquired whether there were any regulations regarding distance from stack to residences, and what was the distance from the site to the nearest residence. Mr. Prendergast inquired as to whether the filter would be a particulate filter or a carbon filter. The applicant noted that he intends to use as much water based paint as possible. Additionally, it was asked whether the DEC conducted inspections after installation. The applicant reported that they reserve the right to inspect at any time. A Special Use Permit will need to be approved and issued.

The project was sent to County Planning Board for their recommendations. There has been no response to date.

There were no further comments or questions from the board.

A motion to conduct the State Environmental Quality Review was made by Mr. Simonsen. Motion seconded by Mr. Haemmerlein. All in favor. Motion carried; form reviewed.

The Impact Assessment of the EAF (Short Form Environmental Assessment) was reviewed by the Attorney. Mr. Howard noted that this is a 2.74 acre parcel. It is an unlisted action subjected to coordinated review.

Part 2-Impact Assessment.

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1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations? *Proposed answer is no.* It is a permitted use subject to a special use permit.
2. Will the proposed action result in a change in the use or intensity of use of land? *Proposed answer is no.*
3. Will the proposed action impair the character or quality of the existing community? *Proposed answer is no.*
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)? *Proposed answer is no.*
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway? *Proposed answer is no.*
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities? *Proposed answer is no.*
7. Will the proposed action impact existing:
  - a. public / private water supplies? *Proposed answer is no.*
  - b. public / private wastewater treatment? *Proposed answer is no.*
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources? *Proposed answer is no.*
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, water bodies, groundwater, air quality, flora and fauna)? *Proposed answer is no.*
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems? *Proposed answer is no.*
11. Will the proposed action create a hazard to environmental resources or human health? *Proposed answer is no.*

A motion to declare a negative declaration was made by Mr. Simonsen. Motion seconded by Mr. Haemmerlein. All in favor. Motion carried; declaration issued.

Mr. Howard made the suggestion that approval could be granted conditionally upon receipt of letter from Columbia County Planning Board that this is a local action and has no county-wide impact and that application for signage be submitted to the town Building Department and be in accordance with the town's zoning regulations.

A motion that the application is substantially complete and ready for conditional approval was made by Mr. Simonsen. Motion seconded by Mr. Samascott. All in favor. Motion carried; application conditionally approved.

A motion to approval application for Special Use Permit was made by Mr. Simonsen. Motion seconded by Mr. Butcher. All in favor. Motion carried; Special Use Permit to be issued.

A fee in the amount of \$600 for the Site Plan Review and Special Use Permit was submitted by the applicant.

#### **D. Old Business**

1. Henry Kazer: Major Subdivision - County Route 28, Valatie;

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Mr. VanAlstyne addressed the board and distributed plans for review. An access easement area was added. The easement would access Lot 4, which is a flag, lot with potential access for 3 other lots. It would be a private road; however other lots could use it to access their properties. The benefit of this proposal would be reducing the number of curb cuts and driveway entrances from County Route 28. Profiles and maintenance agreements would have to be addressed. The proposed access would serve lots 3, 4, and 6. The width of proposed easement is 50'. If the proposed private road is over 500' it would need a pull off for emergency vehicles. The width of the private road was discussed. Profile, cross section and proposed materials will be provided. The other drives on Route 28 have been approved by the Town's Highway Department. A discussion of curb cuts and driveway access ensued. The Engineer suggested some sort of turnaround at the end of the road, perhaps to accommodate emergency vehicles as well. Subdivision road specifications were reviewed. Contours and drainage were discussed. The water table of the area was discussed. Surfacing of the private road was discussed and it was noted that the town does not have specific regulations on the matter. Additional discussion ensued about the particulars regarding this proposal, the impact of its approval, and the town's regulations regarding private roads.

An inquiry was made about the water table. Mr. VanAlstyne noted that test pits to 6' have been done with the result of HOC gravel found. Plans for septic systems were submitted to the engineer. Locations of perk tests and deep-hole tests were noted.

2. Jay Ronald Wills: Zoning Change – Route 9, Valatie;

Mr. Howard addressed the request from the board to draft a proposal of what an amendment to the code regarding this matter might look like. He introduced the proposed language for an addition to section 250-19, supplementary regulations regarding home occupation. Subsection A lays out all the requirements that the code utilizes when evaluating home occupations. Mr. Howard proposed subsection 11 for the board's review:

**ARTICLE V**

**Supplementary Regulations §250-19 A. (11)**

The residency requirement set forth in subdivision (3) and (7)(e) shall not apply to the use of qualified structures or accessory structures, however, all other provisions of §250-19 shall apply. The permitted home occupation uses set forth in §250-19(A)(7) shall be permitted within a structure or accessory structure constructed and existing prior to the enactment of the Town Code on July 10, 1978 .

The extent of use within a qualified structure shall not exceed 500 square feet, and in accordance with §250-19(A)(7), no more than one home occupation use may occur on a single parcel of property.

Essentially, if you had a home occupation use, and the building pre-existed the code, in that limited instance, the code would allow for additional uses as listed above, and also follow the requirements regarding number of employees, parking spots, etc.

Mr. Howard talked about the reason for stipulating the size of 1500 square feet noting that it relates to pre-existing structures.

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Mr. Butcher inquired if that would permanently triple what is currently in the code.

Mr. Howard noted that it would triple the size for this specifically. The rationale being that the current regulation also contemplates there being more occupancy, namely a residence. Mr. Howard provided the example that someone could have a 4,000 sq ft home, and build within their home an additional 500 sq ft. for home occupation. Someone here could have a 3,000 sq ft pre-existing building, they're only going to be allowed to use half of it.

The board discussed the proposed language and posed many additional questions to be considered.

The matter of number of allowed employees was discussed. Mr. Simonsen inquired about the ability of a property owner who owned such a structure to rent the space to someone else for the proposed use. The answer was affirmative. This answer elicited additional qualifications to consider, as well as, the impact that such a change would have. Mr. Rivenburgh inquired as to whether it was currently allowable to have two home occupations in one residence occupying 1,000 sq ft of that residence. It was thought to be possible. It was thought that the number of employees allowed would limit the use. The exact date of the enactment of the code was discussed. It was felt that the date should be reflected in any proposed amendments. It was noted that it would be upon the applicant to demonstrate their structure predated the code as stipulated in an amendment. It was thought that 1972 was the date of enactment of the code.

As a result of the board's discussion a number of additional points were considered as additions to the proposed amendment. The discussion addressed but was not limited to stipulation of code enactment date, number of qualified structure permitted per parcel, residency requirements as set forth in section 3, and residential design requirements as listed in subsection 8, as it was noted that those would not apply, unless alterations were proposed. Residency requirements as set forward in subsections 3 and 7(e) shall not apply. Additionally, qualified structures constructed and existing prior to the enactment of the town's zoning code (dated to be supplied), the extent of use within a qualified structure will not exceed a set amount of space. Potential language was reviewed by the attorney and would be added to the draft provided.

It was the consensus of the board that additional revisions and review were required prior to making a recommendation to the Town Board.

**3. Mark Cebula: Minor Subdivision/ Lot Line Adjustment – County Route 28B, Niverville;**

Mr. Cebula and Mr. VanAlstyne addressed the board. Plans were distributed for review. The board was reminded that this is Minor Subdivision with a lot line adjustment of a previously approved conservation subdivision. The conservation easement would be removed and the existing 2.1 acre lot would be increased to a 2.5 acre lot. Mr. VanAlstyne pointed out that one note on the plans was deleted regarding calculations of the conservation subdivision; and one added regarding previously approved items still in place vis-a-vis sediments and erosion control plan, septic, and well. The issue of the driveway and shared access was discussed. It was thought that the fact that the driveway encroached onto lot one was potentially problematic. It was thought that there exists an easement but it has not been produced to date. It was requested that an easement agreement be confirmed.

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A motion to set a Public Hearing for the project on May 15, 2014, at 7:05pm was made by Mr. Berlin. Motion seconded by Mr. Graham. All in favor. Motion carried; hearing set.

4. Tal Rappleyea: Minor Subdivision – Albany Ave and Fordham Rd, Kinderhook;

Mr. VanAlstyne addressed the board and distributed plans. A letter to represent from the applicant was submitted. Curb cut approval received from Town Highway Department. The driveway entrance was moved further from the intersection. Perc tests have been conducted; deep tests have not yet been conducted. An application has been submitted to Department of Health. It was noted that the town does have a 55' right of way if they chose to widen the Fordham Road. It was felt that it would not be feasible to alter the intersection of Fordham Road and County Route 21 as had been discussed. There was a discussion as to whether a note to the effect that there will be no further subdivision should be added to the plans.

A motion to set a Public Hearing for this project on May 15, 2014, at 7:15pm was made by Mr. Samascott. Motion seconded by Mr. Berlin. All in favor. Motion carried; hearing set.

5. Glenn Herbert: Minor Subdivision/Lot Line Adjustment– Mile Hill Rd and Meiske Rd, Kinderhook;

Mr. VanAlstyne addressed the board and distributed plans for the board's review. Mr. VanAlstyne described this proposal as a merger of lands. Two adjacent lots are owned by the same family totally 44 acres. They would like to remove 16 acres from the northern lot and merge it to the lot to the south. The northern lot has an existing home. The southern lot is unimproved with road access from Wallace Road. Soil type of the lots was discussed and noted on the plans.

A motion to set a Public Hearing for this project on May 15, 2014, at 7:30pm was made by Mr. Simonsen. Motion seconded by Mr. Haemmerlein. All in favor. Motion carried; hearing set.

6. John Brosen: Minor Subdivision – Hennett Road

Mr. Brosen was not in attendance to represent this project.

**E. New Business**

None.

**F. ZBA Opinions**

None.

**G. Liaisons**

1. Village Planning Boards: Nothing new to report.
2. Town Board: Mr. Haemmerlein did not attend. Mr. Howard provided a brief review.
3. NYSEG Project: Nothing new to report.

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**H. Other**

1. Public Comment.

A motion to adjourn the meeting was made by Mr. Haemmerlein. Motion seconded by Mr. Simonsen. All in favor. Motion carried; meeting adjourned at 9:20pm.

Respectfully submitted,

Nataly Dee, Secretary